IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE NINETEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 25274 of 2004

Between:

Smt.T.Lakshmi Devi W/o.T.Kambaiah
Bodemmanur Village, Uyyalavada Mandal,
Kurnool District.

..... PETITIONER

AND

1 The Revenue Divisional Officer Nandyal,Kurnool district.
2 The Mandal Revenue Officer Uyyalavada Mandal, Kurnool District.

....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased To issue a writ, order or direction or particularly one in the nature of writ of Mandamus, declaring the action of the 1st respondent in suspending the petitioner's authorisation for the Fair Price shop dealer of Bodemmanur Village, Uyyalavada Mandal, Kurnool District by issuing impugned suspension order in Rc.E.122/2004 dt 30-11-2004 without giving show cause notice and opportunity and solely basing on the alleged report of 2nd respondent on the alleged seizure of certain commodities in a tractor at sarvaipally cross Roads for which petitioner is no way concerned, only by yielding to the political pressures, as illegal, arbitrary and violative of Article 14,19 and 21 of constitution of India and consequently set aside the above stated impugned proceedings of the 1st respondent with a further direction to the respondents to continue the petitioner as Fair Price shop dealer.

Counsel for the Petitioner: MR.K.RATHANGA PANI REDDY

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court, at the stage of admission, made the following :

ORDER:

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Petitioner was appointed as a dealer of the fair price shop of Bodemmanur Village, Uyyalavada Mandal, Kurnool District. Her authorization was suspended by the 1st respondent through his order, dated 30.11.2004, on the ground that certain essential commodities were found to have been transported in a Tractor in the month of October, 2004, and when enquired, the driver of the Tractor revealed that the stocks of rice, sugar and blue kerosene were brought from the shop of the petitioner. It is also stated that proceedings under Section 6-A of the Essential Commodities Act, 1955 (for short 'the Act'), were initiated and the suspension is ordered pending enquiry.

Learned counsel for the petitioner submits that the petitioner had nothing to do with the stocks seized from the Tractor, and in fact, all the stocks are intact with her. He states that except making a reference to the proceedings under Section 6-A of the Act, the 1st respondent did not consider the matter independently and the same is opposed to law laid down by this Court in several Judgments.

Learned Government Pleader for Civil Supplies, on the other hand, submits that the truth or otherwise of the allegations against the petitioner needs to be considered at the enquiry before the 1st respondent, and it would be premature, at this stage, to allege or conclude anything.

From a perusal of the impugned order, it is clear that the 1st respondent suspended the authorization of the petitioner on the ground that certain stocks were found to have been transported through a Tractor, and the driver thereof stated that they belong to the petitioner. Though reference is made to proceedings under Section 6-A of the Act, it is not known as to whether the petitioner is shown as a party to the same. Further, basically, unless the stocks are seized from the petitioner or it is clearly established that the stocks from the shop of the petitioner were being transported unauthorizedly, she cannot be penalized. This, however, is a matter, which needs to be considered by the 1st respondent in the enquiry. It is represented that though more than one and half months have elapsed, no show cause notice was issued. The 1st respondent appears to be of the view that any further action

against the petitioner can be only after the disposal of the proceedings under Section 6-A of the Act. However, in the circumstances of the case, petitioner cannot be made to wait indefinitely, particularly when nothing was seized from her.

Hence, the writ petition is disposed of directing that;

a. The 1st respondent shall issue show cause notice to the petitioner within one week from the date or receipt of this order, and it shall be open to the petitioner to submit her explanation within one week thereafter.

b. On receipt of explanation or on expiry of the period stipulated therefor, as the case may be, the 1st respondent shall pass appropriate orders in the proceedings initiated against the petitioner within four weeks thereafter.

c. The 1st respondent shall not be guided by mere pendency of the proceedings under Section 6-A of the Act, in view of the fact that the stocks, referred to in the impugned order, were not seized from the petitioner herself.

There shall be no order as to costs.

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(L.NARASIMHA REDDY,J)

Date: 19-01-2005

Note: Furnish copy

in three days.

(B/o.)

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To

1 The Revenue Divisional Officer Nandyal,Kurnool district.
2 The Mandal Revenue Officer Uyyalavada Mandal, Kurnool district.
3 2CCs to the G.P for Civil Supplies, High Court Buildings,

Hyderabad(O.U.T).

4 2CD copies